

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Team # 1	CCRB Case #: 201408989	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/07/2014 12:05 AM	Location of Incident: West 17th Street between Neptune Avenue and Mermaid Avenue	Precinct: 60	18 Mo. SOL 2/7/2016	EO SOL 2/7/2016	
Date/Time CV Reported Tue, 09/02/2014 12:32 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/02/2014 12:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Mobeen Yasin	26696	948285	060 PCT
2. Officers			060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Imad Beydoun	15633	950077	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mobeen Yasin	Abuse: PO Mobeen Yasin frisked § 87(2)(b)	
B.POM Mobeen Yasin	Abuse: PO Mobeen Yasin searched § 87(2)(b) s car.	
C. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
D.POM Mobeen Yasin	Discourtesy: PO Mobeen Yasin spoke discourteously to § 87(2)(b)	

Case Summary

On August 7, 2014, at 12:05 a.m., § 87(2)(b)'s car was stopped on West 17th Street between Neptune Avenue and Mermaid Avenue in Brooklyn by PO Mobeen Yasin and PO Imad Beydoun of the 60th Precinct. His brother, § 87(2)(b) who was uncooperative with the investigation (encl. 4c), was in the front passenger's seat of the car at the time. Upon approaching the vehicle, PO Yasin and PO Beydoun smelled the odor of marijuana and asked the occupants to step out of the car. § 87(2)(b) was frisked when he exited the car (**Allegation A**). PO Yasin then searched the car and recovered two marijuana cigarettes that were in plain view on top of the center console (**Allegation B**). Other officers responded to the scene and at that point officers on the scene allegedly spoke discourteously towards § 87(2)(b) by saying, "We don't give a fuck" and "Take your brother's shit and get the fuck out of here" (**Allegation C**). While in the police car, PO Yasin allegedly said, "We're the fucking police" to § 87(2)(b) (**Allegation D**). § 87(2)(b) was arrested for § 87(2)(a) 160.50

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Mediation, Notice of Claim, and Criminal Histories

This case was not eligible for mediation because § 87(2)(b) was arrested. As of April 3, 2015, § 87(2)(b) has not filed a Notice of Claim with the Comptroller's Office (encl. 10). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 1b).
- § 87(2)(b) has filed the following CCRB complaints (encl. 1c):
 - § 87(2)(b)
- PO Yasin has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 1a).

Findings and Recommendations

Explanation of Subject Officer Identification

- PO Yasin and PO Beydoun acknowledged interacting with § 87(2)(b) and § 87(2)(b)
- § 87(2)(b) did not provide a complete statement when he provided his phone statement and therefore did not attribute the discourtesy allegations he alleged to specific officers. § 87(2)(b) has been uncooperative with the investigation ever since. PO Yasin and PO Beydoun identified additional officers from the 60th Precinct coming to the scene with the sergeant to verify the arrest. § 87(2)(g)

Investigation Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

Allegation A – Abuse of Authority: PO Mobeen Yasin frisked § 87(2)(b)

Allegation B – Abuse of Authority: PO Mobeen Yasin searched § 87(2)(b)'s car.

It is undisputed that § 87(2)(b) was frisked and that his car was searched.

§ 87(2)(g)

§ 87(2)(b) In his initial phone statement, § 87(2)(b) stated that when PO Yasin was placing him in handcuffs he told him that he found marijuana in his car. PO Yasin then emptied § 87(2)(b)'s ashtray into his own hands in front of § 87(2)(b) and showed him previously smoked marijuana “roaches” (encl. 2b). In his in-person statement § 87(2)(b) stated that PO Yasin leaned the top half of his body into the driver’s seat of § 87(2)(b)'s car for thirty seconds and that he did not know where PO Yasin searched because he did not see it but thought that he searched his cup holders. After 30 seconds of searching the car, PO Yasin exited the car and placed § 87(2)(b) in handcuffs but did not recover anything from the car, did not tell him he found anything in the car, and did not show § 87(2)(b) anything that he found in the car (encl. 3a-h). Also, § 87(2)(b) did not acknowledge that he was arrested for marijuana.

PO Yasin stated that when he conducted the car stop for the failure to signal, he approached the driver’s side of the car. When § 87(2)(b) rolled down the window, PO Yasin smelled a strong scent of freshly burned marijuana. PO Yasin saw smoke that smelled like marijuana come out of the car and saw that the inside of the car was cloudy. PO Yasin requested § 87(2)(b)'s license and registration and asked § 87(2)(b) if he had any drugs in his car since it smelled like marijuana. § 87(2)(b) was irate and began to yell at PO Yasin. PO Yasin asked § 87(2)(b) to step out of the car and go to the back of the car. PO Yasin was intending to search the vehicle’s lungable, grabable areas at this point to investigate if there was marijuana in the car. § 87(2)(b) was resistant to going to the back of the car but eventually complied and stood at the back with PO Beydoun and § 87(2)(b). PO Yasin then went to the driver’s side front door and shone his flashlight into the car. He observed two marijuana cigarettes sitting on top of the center console in plain view. PO Yasin retrieved the marijuana cigarettes and then continued to search the floor of the car, the front seat and the back seat (PO Yasin was not sure if he looked into the back seat from the front seat or if he opened the back driver’s side door to get access to the back seat.) When PO Yasin recovered the two marijuana cigarettes from the vehicle, § 87(2)(b) was considered under arrest. PO Yasin then frisked and searched § 87(2)(b) incident to his arrest. PO Yasin denied frisking § 87(2)(b) prior to him being considered under arrest (encl. 5a-n).

PO Beydoun § 87(2)(g) stated that when he approached the vehicle, the front passenger’s window was already rolled down and he smelled an excessive odor of freshly burned marijuana emanating from the car. The occupants were asked to step out of the vehicle so that PO Yasin could search the car. PO Beydoun did not remember if PO Yasin frisked § 87(2)(b) when he was brought to the back of the car. When both § 87(2)(b) and § 87(2)(b) were at the back of the car with PO Beydoun, PO Yasin searched the vehicle. PO Beydoun observed PO Yasin’s knees on the driver’s seat leaning towards the center console; this was the only door that PO Yasin entered. After being in the vehicle for about one

minute, PO Yasin exited the vehicle with the marijuana he recovered and placed § 87(2)(b) under arrest (encl. 6a-f).

§ 87(2)(a) 160.50

§ 87(2)(b) was not arrested.

If a car is lawfully stopped and an officer smells the odor of marijuana, the officer has probable cause to search the car and its occupants *People v. Smith*, 66 A.D.3d 514 (1st Dept, 2009) (encl. a). According to *People v. Ulerio*, 781 N.Y.S.2d 627 (Sup Ct. NY Cty 2003), the police may stop a vehicle and frisk its occupants when they have reasonable suspicion of criminal activity (encl. b-d).

§ 87(2)(g)

Allegation C – Discourtesy: Officers spoke discourteously to § 87(2)(b)

In his initial brief phone statement, § 87(2)(b) alleged that officers said “We don’t give a fuck about none of this crazy shit. We’re narcotics,” “We don’t give a fuck about nothing else but narcotics,” told § 87(2)(b) to take § 87(2)(b)’s car before they “tow[ed] his shit away,” and said “Take your brother’s shit and get the fuck out of here.” § 87(2)(b) did not specify which officers said these statements during his brief phone statement and he has been uncooperative with the investigation since (encl. 4a-b).

§ 87(2)(g)

Allegation D – Discourtesy: PO Mobeen Yasin spoke discourteously to § 87(2)(b)

In his verified interview, § 87(2)(b) alleged that when he was inside the police car, PO Yasin said, “We’re the fucking police. You can’t talk to me any kind of way” (encl. 3a-h) In his initial phone statement, § 87(2)(b) stated that PO Yasin told him that he could not talk to the officers any way he wanted to; he did not allege any discourtesies during this statement (encl. 2b). § 87(2)(b) was not in the police car with § 87(2)(b)

PO Yasin denied saying “We’re the fucking police” and denied using any discourtesies throughout this incident (encl. 5a-n). PO Beydoun did not remember hearing PO Yasin use any discourtesies and he did not hear any officer say “We’re the fucking police” (encl. 6a-f).

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date